

Remarks

Claims 17-26 are pending in the application. Claims 17, 21 and 26 have been amended. Claim 25 has been canceled.

Applicant had previously submitted an Amendment and Response Under 37 C.F.R. §116 on August 3, 2010 in response to the Office Action of May 21, 2010, which was made final. The amendment was not entered as per the Advisory Action of August 17, 2010. Accordingly, the present amendment and response is being offered in response to the Office Action of May 21, 2010.

Applicant submits that the newly amended claims are allowable over all the cited art.

Furthermore, Applicant has amended independent claims 17, 21 and 26 to overcome those rejections made based upon 35 U.S.C. §112, sixth paragraph, and 35 U.S.C. §101. Specifically, these claims have been amended to include specific machines that perform the specified functions. These include a broadcast data receiver in conjunction with a television to allow television programs to be generated. In addition, the broadcast data receiver is used not only to receive the data from which the programs can be generated but also the data from which the information is derived to allow the matching and weighting steps to be performed for the recommendation generation. The broadcast data receiver also includes storage means to allow the data which is to be compared to be stored and a data processor to allow the matching, weighting and recommendation steps to be achieved and proved to the user via the broadcast data receiver.

Applicant respectfully submits that support for the newly added claim limitations is found in the application as filed. Applicant would remind the Examiner that the express or explicit disclosure is not a requirement to meet the written description requirement under 35 U.S.C. §112, first paragraph. The written description requirement may also be met by its implicit or inherent disclosure to support newly added claim limitations. *See* M.P.E.P. 2163(I)(B). To satisfy the written description requirement under 35 U.S.C. §112, first paragraph, an applicant need only to convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in

possession of the invention, and the invention, in that context, is whatever is now claimed. *See* M.P.E.P. §2163(I); and *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563-64, 19 U.S.P.Q.2d 1111, 1117 (Fed. Cir. 1991). The subject matter of the claim need not have to be described *in haec verba* (i.e. using the same terms) in order for the disclosure to satisfy the description requirement. *See* M.P.E.P. 2163(I)(B); and *Purdue Pharma L.P. v. Faulding, Inc.*, 230 F.3d 1320, 56 U.S.P.Q.2d 1481 (Fed. Cir. 2000), *reh'g denied, reh'g, en banc, denied, Purdue Pharma L.P. v. Faulding, Inc.*, 2001 U.S.App. LEXIS 4469 (Fed. Cir. 2001). It is sufficient that the specification convey clearly to those skilled in the art, in any way, to whom it is addressed, that the applicants invented the subject matter that is later claimed. *In re Wertheim*, 541 F.2d 257, 262, 191 U.S.P.Q.90, 97 (CCPA 1976), *appeal after remand*, 646 F.2d 527, 209 U.S.P.Q. 554 (CCPA 1981). An invention may be described in different ways and still be the same invention. *Kennecott Corp. v. Kyocera International, Inc.*, 835 F.2d 1419, 1422, 5 U.S.P.Q.2d 1194, 1197 (Fed. Cir. 1987), *cert. denied*, 486 U.S. 1008 (1988).

Applicant submits that although there is no specific mention of a broadcast data receiver in the description it is clear from the description, for example, at page 6, lines 10-15, that the data or information which is used is transmitted or broadcast from a television station or the Internet at a remote location and therefore must be received by an apparatus at the user's premises that is used to receive and process the data to allow television programs to be shown to the user and to also allow auxiliary services, such as a digital television electronic program guide to be generated. Furthermore, because the purpose of the method is to provide information to the user it is readily apparent that the broadcast data receiver apparatus, in addition to the processing of the data to generate programs or auxiliary services, must have a storage facility to allow the data to be matched to be held in the broadcast data receiver and a data processing facility to allow the matching of the information data to be performed in order for the recommendation to be generated and provided to the user at the location at which the broadcast data receiver is provided. The machines and apparatuses capable of performing the claimed functions and operations are well known and given the context and purpose of Applicant's claimed invention those skilled in the relevant art encountering Applicant's disclosure would be

well apprised that they are implicitly and/or inherently included to perform Applicant's claimed functions and operations.

Applicant respectfully submits that in view of the above remarks and the amendments made to the claims, the application is now in a condition for allowance.

Conclusion

In view of all of the reasons presented above, Applicant submits that the application is in a condition for allowance. Favorable action is therefore respectfully requested.

If any further extension of time is believed necessary, such extension is hereby by requested. If any fees are deemed necessary for the continued prosecution of the present application, the Commissioner is hereby authorized to charge them to Deposit Account No. 50-1899.

Please contact the undersigned at the address or telephone number listed below should there be any questions, or if contacting the undersigned would expedite or aid the examination or prosecution of this application.

Date: November 19, 2010

Respectfully submitted,

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